INDEPENDENT COMMUNITY
BANKERS *of* AMERICA®

February 9, 2021

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Majority Leader Schumer, Minority Leader McConnell, Speaker Pelosi, and Minority Leader McCarthy:

On behalf of community banks across the country, with more than 52,000 locations, I write today to offer a set of recommendations for inclusion in the pandemic relief legislative package currently before Congress. These recommendations were developed in consultation with community bankers from across the country representing rural, suburban, and urban markets. These bankers have a critical stake in finding solutions that will help their communities survive the crisis and rebound strongly once the pandemic has passed.

Paycheck Protection Program

The PPP has proven effective in preserving small business viability and saving jobs and has been used broadly and successfully by community banks. However, as community banks have begun processing applications for second draw loans, they have encountered a number of problems that are inhibiting the full potential of the program. ICBA urges Congress to make statutory fixes to resolve the problems identified below.

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First Draw Increase Eligibility. Certain borrowers who have not yet filed for or received forgiveness of their first draw 2020 PPP loan may apply for an increase in that loan. However, borrowers whose first draw 2020 loans have already been forgiven cannot apply for a first draw loan increase, even if they otherwise meet the criteria for an increase. This is unfair because it punishes borrowers who filed forgiveness applications early. The statute should be amended to allow borrowers who have received first draw loan forgiveness to be eligible to receive a first draw loan increase.

Second Draw Use of Proceeds Requirement. Borrowers with a modest shortfall in using first draw dollars for eligible purposes shouldn't be shut out from second draw loans, especially if they've already repaid the remaining balance on the first draw loan. Congress should consider creating a percentage-based de minimis test to define a level of spending on ineligible expenses that would not disqualify a borrower for a second draw loan.

Farm Partnerships. Current law allows self-employed farmers and ranchers that report farm income on Schedule F to use the gross income method, rather than the net income method, to calculate their maximum loan amount and owner's compensation. However, SBA has limited this treatment to 1040 Schedule F filers. It is not available to thousands of self-employed farmers and ranchers whose businesses are organized as partnerships or S corporations. Congress should direct the SBA to make the gross income method available to these farmers and ranchers.

Save Our Stages Applicants. Live action venues eligible for Save Our Stages grants should be allowed to apply for PPP loans while waiting to find out if they will receive a grant. If such a venue eventually does receive a grant, the amount of the grant could be reduced by the amount of the PPP loan, thereby avoiding the double dipping prohibited by the statute.

Paycheck Protection Program Lending Facility. The CARES Act created the PPPLF, a Federal Reserve program to extend credit to PPP lenders, taking the loans as collateral at face value. ICBA supports extension of the PPPLF, which is scheduled to expires March 31, 2021. The PPLF is needed to support liquidity and additional community lending.

SBA Purchase of Residual PPP Loans at Par. After the forgiveness amount of a PPP loan has been determined, the SBA should purchase any remaining balance on the loan at par from originating institutions. SBA loan purchases would create greater bank balance sheet capacity to spur additional lending. The high volume of PPP lending done by community banks to meet the urgent demands of the crisis is absorbing their balance sheets. As we enter the recovery, banks need ample balance sheet capacity to support small businesses in their markets. SBA purchase of PPP loans at par would address this need.

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Bank Capital and Accounting Relief

ICBA appreciates the bank capital and accounting relief of the CARES Act and Economic Aid Act. Unfortunately, the economy remains weak in 2021. ICBA urges Congress to pass the measures below which are necessary to support borrowers and lenders facing historically challenging circumstances. Because banks remain well capitalized, these measures could be implemented without compromising safety and soundness.

- Extend Troubled Debt Restructuring (TDR) provisions of the CARES Act through December 31, 2022 (they are currently scheduled to expire at the end of 2021) and suspend impairments of COVID-19-related assets for a period of two years.
- Ensure that the origination and/or holding of PPP loans has no impact on a community bank's risk-based capital and leverage ratios.
- Suspend FASB's Current Expected Credit Losses (CECL) implementation until 2025.
- Make 8% Community Bank Leverage Ratio (CBLR) permanent for institutions of $10 billion or less in assets.

Tax Proposals

Support Agricultural Lending

Allow interest on loans secured by agricultural real estate or primary residences in rural communities to be tax-exempt as provided for in the Enhancing Credit Opportunities in Rural America Act of the 116th Congress. This change would support a higher volume of community bank credit at lower interest rates to support farmers, ranchers, and rural homeowners.

Preserve and Extend Net Operating Loss Provisions of the CARES Act

The CARES Act created a 5-year NOL carryback for losses incurred in 2018, 2019, and 2020 and allows losses incurred in these years to fully offset taxable income (as opposed to 80 percent of this income). For non-corporate taxpayers, the CARES Act suspended limitations on excess business losses incurred in these same years. These provisions create a new source of funding to support struggling businesses and will support employment.

ICBA opposes any efforts to curb these benefits by limiting the carryback period, limiting eligible taxpayers, reinstating limitations on excess business losses, or other adverse changes. Because many businesses will continue to incur losses in 2021, losses incurred this year should be eligible for carryback as well.

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Mortgage Proposals

ICBA supports extension of the government sponsored enterprises' qualified mortgage patch to January 2022. Extending the patch would help avoid additional disruption as the economy and housing market recover from the current crisis.

Support for Local Regions

Congress should raise the current bank-qualified municipal bond annual issuance limit to $50 million from $10 million to expedite low-cost funding for local projects. This was a successful provision of the 2009 American Recovery and Reinvestment Act. It would help finance needed municipal projects to support health, infrastructure and jobs as municipalities struggle as a result of lower tax revenues.

Agricultural Proposals

Forbearance for Banks and Their Farm and Ranch Customers

- Ensure regulators do not classify agricultural loans as substandard at least through the end of 2022.
- Allow additional time for borrowers to work out farm loan repayments.

Thank you for your consideration. We look forward to continuing to work with you to sustain the American economy as this crisis evolves.

Sincerely,

/s/

Rebeca Romero Rainey
President & CEO

CC: Treasury Secretary Janet Yellen
Members of the U.S. House of Representatives
Members of the United States Senate

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